

# SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR  
3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202) 424-7500  
FACSIMILE (202) 424-7647  
WWW.SWIDLAW.COM

NEW YORK OFFICE  
THE CHRYSLER BUILDING  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174  
TEL. (212) 973-0111  
FAX (212) 891-9598

June 29, 2004

## **VIA ELECTRONIC FILING**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, D.C. 20554

**Re: Notice of *Ex Parte* Meeting in WC 03-211**

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Federal Communications Commission's ("FCC") Rules, this letter serves to provide notice in the above-captioned proceedings of *ex parte* meetings with certain commissioners and their staff. On June 28, 2004, the undersigned accompanied Mr. Jeffrey Citron, Chairman and CEO of Vonage Holdings Corp. ("Vonage") and Mr. Chris Murray, also of Vonage, to meet with the following people: Commissioner Copps, Jessica Rosenworcel, Legal Advisor to Commissioner Copps, Commissioner Adelstein, Anne Perkins, Special Assistant to Commissioner Adelstein, Christopher Libertelli, Senior Legal Advisor to Chairman Powell, Aaron Goldberger, Wireless Telecommunications Bureau, Donald "Cory" Jackson, Summer Intern, Commissioner Abernathy, Matthew Brill, Legal Advisor to Commissioner Abernathy, Daniel Gonzalez, Senior Legal Advisor to Commissioner Martin, and Scott Stanley also with Commissioner Martin's office.

During these meetings, Vonage discussed the New York Public Service Commission's recent ruling that Vonage is a "telephone corporation" under state law and the ensuing litigation that is currently pending with the Federal District Court for the Southern District of New York. Vonage stressed the need for the FCC to act on Vonage's petition filed in the above-referenced docket so that the agency could proceed with its *IP-Enabled Services* proceeding and develop a national policy and regulatory framework for Internet applications. Failing to act in the near future will sideline the FCC as the judiciary is actively involved in resolving important issues concerning Internet-based communications in both New York and in the United States Court of Appeals for the Eighth Circuit.

15424X1

The Company further emphasized that a limited but timely ruling finding that the Vonage service is jurisdictionally interstate and subject to the exclusive regulatory jurisdiction of the FCC would avoid any possibility of a conflict such as that which occurred between the FCC's *Cable Modem Declaratory Ruling* and the Ninth Circuit's decision in the *Brand X Internet Services v. FCC* cases. Any immediate ruling in this proceeding need *not* limit the Commission's ability to further address these services in the context of the *IP Enabled NPRM*.

The Company also expressed its view that the continual efforts by the states to regulate Internet applications would slow broadband deployment and negatively impact the consumer benefits associated with Vonage's service. Vonage recently announced a price decrease of \$5.00, per month, for its residential unlimited package of service that includes many features that other providers require consumers to pay for separately in order to utilize. The Company highlighted that premature regulatory action by state commissions threatens to encumber the deployment of advanced Internet applications and further lower broadband penetration rates in the United States. Vonage also discussed number portability difficulties that the Company is experiencing where some rural local exchange carriers are refusing to port telephone numbers in violation of federal law.

Pursuant the Commission's Rules, this letter is being submitted electronically to the Secretary for filing in the above-referenced proceeding.

Sincerely,

/s/  
William B. Wilhelm, Jr.  
Ronald W. Del Sesto, Jr.